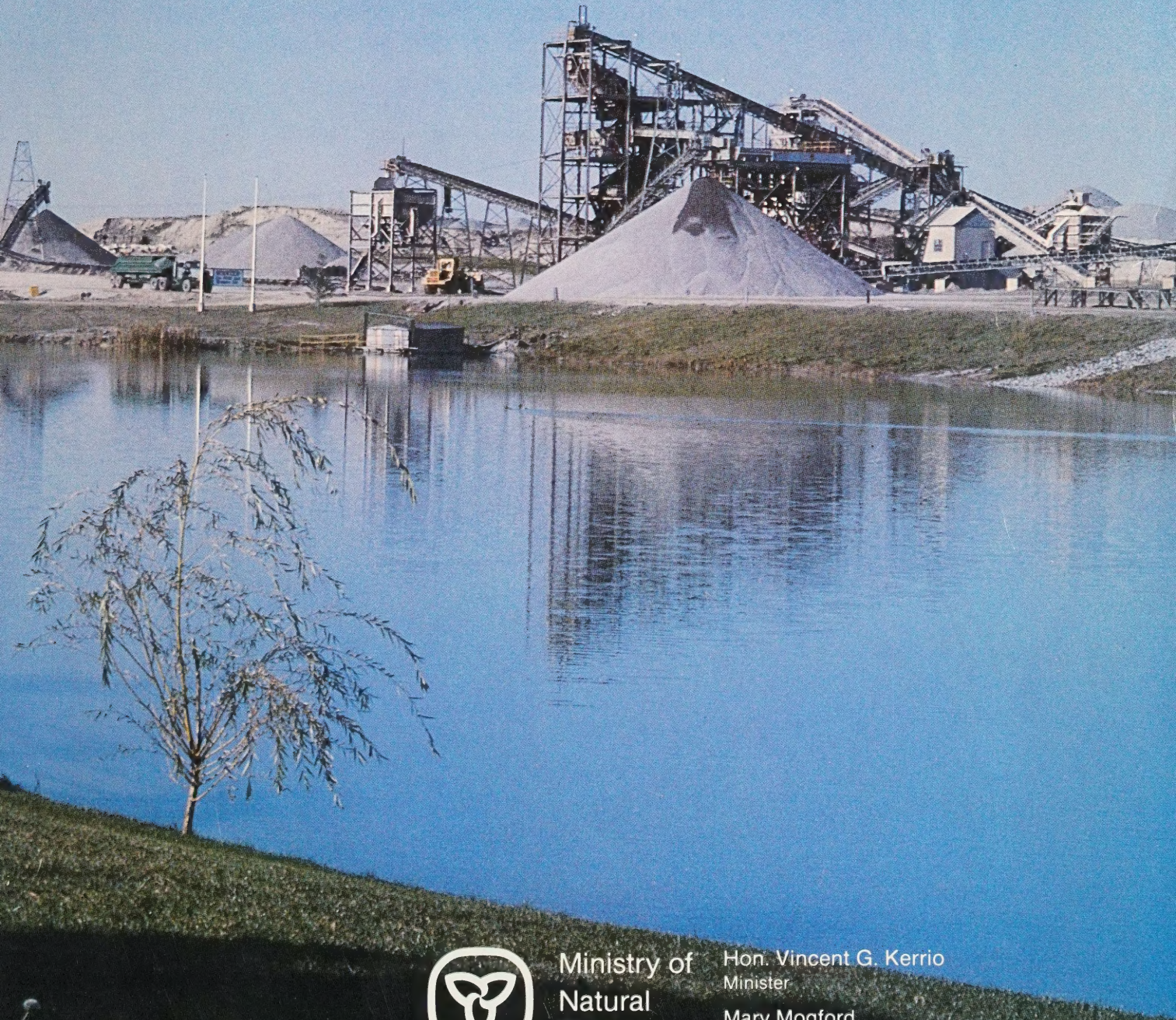


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Pits and Quarries Control Act

Applicant's Guide



Ministry of
Natural
Resources

Hon. Vincent G. Kerrio
Minister

Mary Mogford
Deputy Minister

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Printed in Ontario

Current publications of the Ontario Ministry of Natural Resources, and price lists, are obtainable through the Ministry of Natural Resources Public Information Centre, Room 1640, Whitney Block, 99 Wellesley St. West, Toronto, Ontario M7A 1W3 (personal shopping and mail orders).

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Purpose of Guide

This guide is intended to assist applicants for pit and quarry licences and wayside permits. The guide is prepared for convenience only and is not a complete resume of all legislation and policies relating to pits and quarries. *(A summary of the most important legislation and policy affecting pits and quarries is outlined in Appendix A.)* The issuance of a licence or permit under the Pits and Quarries Control Act¹ does not absolve the individual or company from meeting the requirements of other agencies and their applicable legislation.

Introduction



The purpose of the Pits and Quarries Control Act is to minimize adverse environmental and social impacts of aggregate operations, while maintaining the viability of the aggregate industry to meet local, regional and provincial demand for aggregates.

The Act controls and regulates the operation of pits, quarries and wayside pits and quarries and requires their rehabilitation through a licence/permit process. It is administered by the Ministry of Natural Resources. Rehabilitation security is required to be deposited with the Ministry.

The Pits and Quarries Control Act and regulations apply to private land only in designated parts of Ontario (see Figure 1). On Crown land, quarry permits are required under the Mining Act.

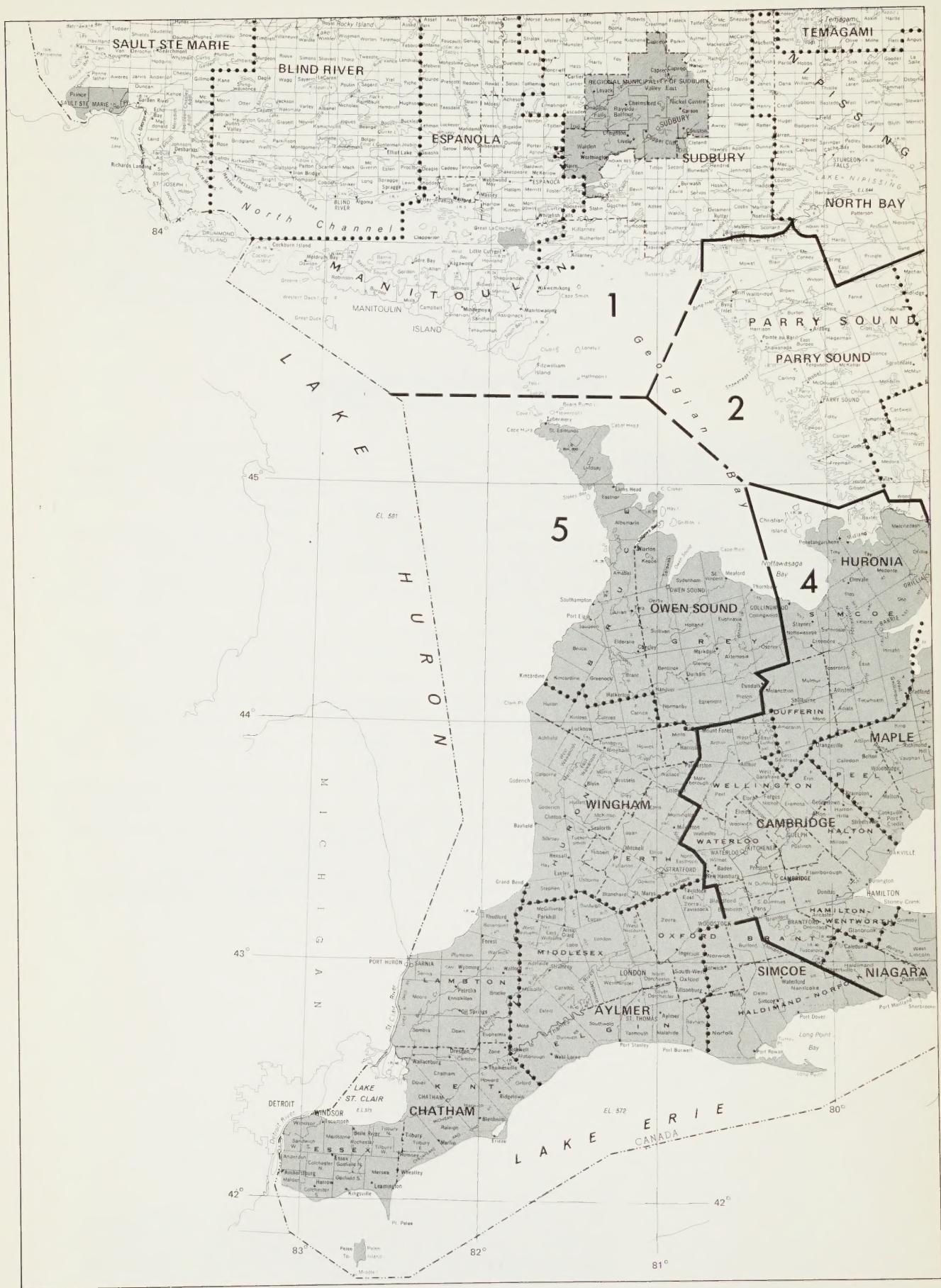
Municipalities have the prime responsibility for planning under the Planning Act. The municipality is directly involved in a licence application to determine if the location and operation conform to the official plan and zoning by-law.

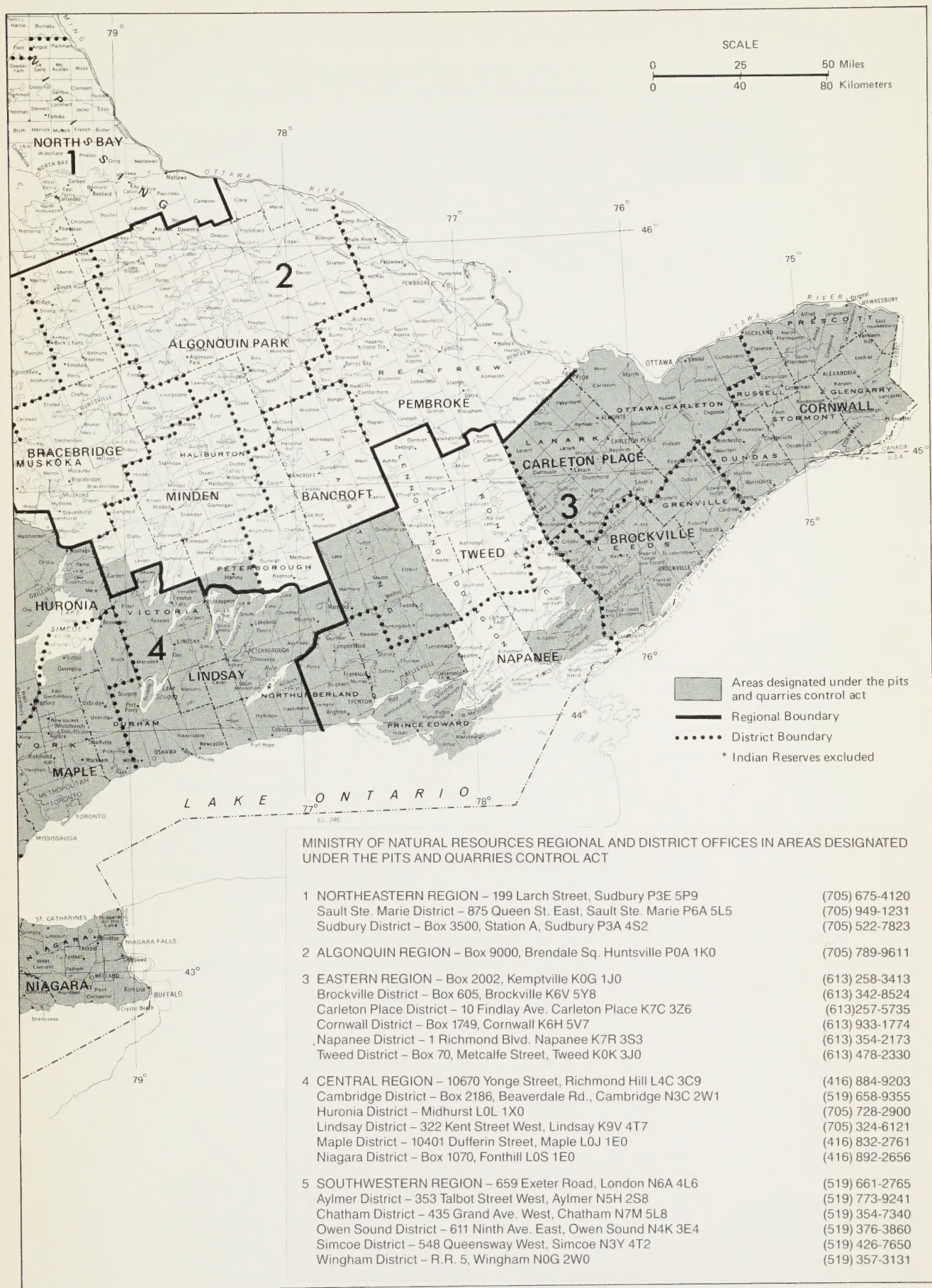
A licence or permit *must* be obtained to establish or operate a pit or quarry or wayside pit or quarry. A "pit" is an open excavation where unconsolidated earth material (*sand, gravel, fill etc.*) is removed for construction, industrial or manufacturing purposes.²

A "quarry" is an open excavation where consolidated rock (*bedrock*) is removed for construction, industrial or manufacturing purposes.²

¹ Applicants are advised to obtain a copy of the Act and accompanying regulations. Copies may be obtained from the Ministry of Natural Resources District Office; Ontario Government Bookstore, 880 Bay St., Toronto, Ontario (personal shopping only); or (mail order) Publication Services, 5th Floor, 880 Bay St., Toronto, Ontario M7A 1N8 Tel. (416) 965-6015, Toll-free 1-800-268-7540.

² For legal definitions, refer to the Pits and Quarries Control Act.





A "wayside pit" or "wayside quarry" is a temporary pit or quarry opened and used by a public road authority for a particular road construction project or contract.²

Anyone wanting to know if the removal of material from a site requires a licence or permit should contact the Ministry District Office.

There are two classes of licence for pits and quarries. Operations over 15,000 tonnes per annum require a licence application with comprehensive site plan. Small operations, intending to produce less than 15,000 tonnes annually, may, if desired, apply using a "short form" of site plan.

Wayside pits and quarries require a wayside permit application and sketch map (*site plan*).

Extraction Rights

A prerequisite to obtaining a licence or permit is proof of the right to extract material from the land (*i.e. ownership, lease or other extraction agreement.*)

Pit and Quarry Licences

Ministry of Natural Resources Requirements

The Ministry of Natural Resources is the coordinating agency for processing pit and quarry licence applications. However, other agencies are involved, including the municipality, the Ministry of the Environment and the Ministry of Agriculture and Food. The concerns of these agencies are discussed later in this Guide.

The applicant should first determine the size of the operation (*whether production is to be less than or greater than 15,000 tonnes per annum*) and obtain the following items from the appropriate Ministry of Natural Resources District Office:

- Appropriate application forms
- Site plan requirements
- Licence fee and rehabilitation security requirements
- Other agency contacts

In addition to the requirements of the Pits and Quarries Control Act, the Ministry of Natural Resources is concerned about the interrelationship between pits and quarries and other Ministry responsibilities such as fish, wildlife, recreation, forestry, wetlands and areas of natural and scientific interest. The licence application package will be reviewed for its impact on these other program objectives.

Preliminary Site Inspection



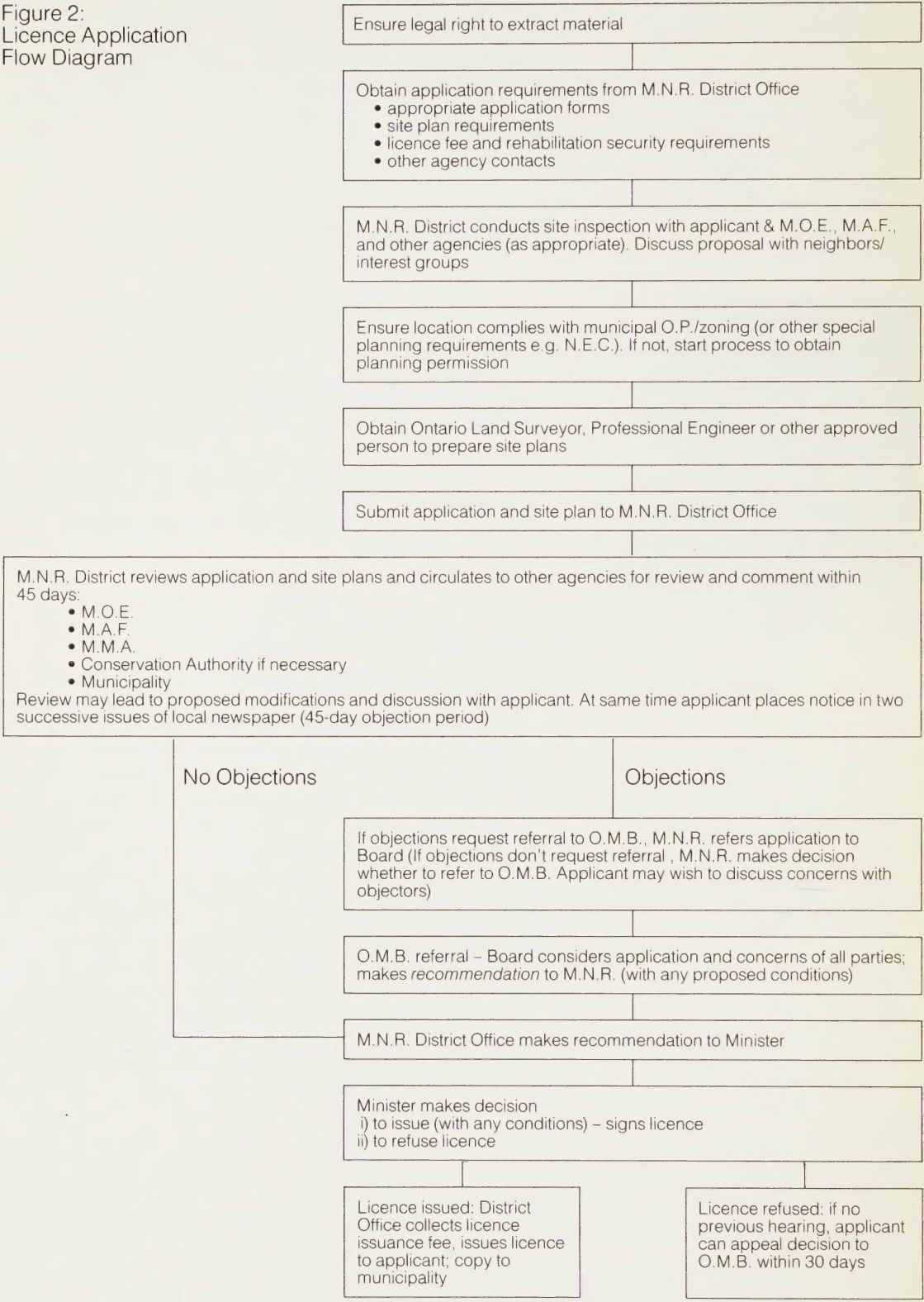
The Ministry of Natural Resources will conduct a preliminary site inspection at the earliest opportunity, together with the applicant/landowner, and other agency representatives as appropriate, such as the municipality, Ministry of the Environment and Ministry of Agriculture and Food. The applicant may wish to discuss the application with nearby residents and local politicians prior to the preliminary inspection.

The preliminary inspection is arranged to assist in the preparation of the site plan and to identify possible concerns of the various agencies involved. The chief requirements and concerns of the major agencies are summarized below:

Municipal Requirements

The Ministry of Natural Resources cannot issue a licence if the location is in contravention of the municipal official plan or zoning by-law (*the term "by-law" under sec. 6(2) of the Pits and Quarries Control Act does not include regulatory by-laws passed under the Municipal Act*). Therefore, the applicant should ensure that the site location conforms to the official plan and/or zoning (*or has prior legal "non-conforming use" status*). If it is in contravention, the applicant must initiate the necessary official plan and/or zoning amendment(s) either prior to, or concurrent with, the licence application. Any site plan required by municipal planning documents should be the same as that required for the licence application. Attention should also be given to any development policies or requirements (*e.g. concerning rehabilitation*) contained in the official plan or zoning by-law. In addition, the applicant should enquire about any regulatory by-laws or other municipal concerns relating to pit and quarry operations, such as hours of operation, truck routes etc. However, it is worth noting that municipalities do not have any legislative authority to require "levies" on production.

Figure 2:
Licence Application
Flow Diagram



In newly designated areas licensing of existing pits and quarries will follow a slightly different process.



Ministry of the Environment Requirements

With regard to pits and quarries, the Ministry of the Environment is primarily concerned with surface and ground water quality and quantity (*well interference, treatment of washwater etc.*), air pollution such as dust and process emissions, and noise and vibration. Under the Ontario Water Resources Act and Environmental Protection Act the Ministry of the Environment may require a pit or quarry licence applicant to obtain "Certificates of Approval" and/or a "Permit to Take Water".

If an applicant intends simply to extract and remove material from the site without associated operations such as drilling, blasting, crushing, washing, screening, dredging, de-watering etc., then no certificates of approval or permits are likely to be required.

When these associated operations are intended (*with the exception of permits to take water*), environmental concerns of the Ministry of the Environment, where feasible, may be accommodated through the site plan design requirements or licence conditions under the Pits and Quarries Control Act.

However, where intensive uses are proposed within the area to be licenced (*e.g. asphalt plant, concrete block manufacture or where washwater or other waste water is proposed to be discharged from the site to a watercourse etc.*), a "Certificate of Approval" under the Environmental Protection Act or Ontario Water Resources Act will be required from the Ministry of the Environment. Other environmental concerns related to the site may also be dealt with through the Certificate of Approval process.

If it is proposed to remove or use water (*e.g. dewatering or for washing*) at a rate exceeding 50,000 litres per day, a "Permit to Take Water" will be required. The application forms for a "Permit to Take Water" or "Certificate(s) of Approval" may be obtained from the Ministry of the Environment.

Normally, the information that is required for the licence application and site plan should be sufficient for the Ministry of the Environment to adequately assess environmental impacts of the proposed pit or quarry operation. However, additional information on the following matters may sometimes be required:

- i) land use (including buildings and structures), ground and surface water, for greater than the 150-metre distance normally required under the Pits and Quarries Control Act;
- ii) potential sources of noise and dust (*e.g. equipment*);
- iii) materials which could contaminate ground or surface waters (*e.g. oil and chemicals storage*);
- iv) attenuation measures to limit noise and vibration from blasting to levels acceptable to the Ministry of the Environment;
- v) generated truck traffic.

Contact should be made with the appropriate Regional or District Office of the Ministry of the Environment to determine the need for such additional information.

Ministry of Agriculture and Food Requirements

The Ministry of Agriculture and Food has a mandate to preserve agriculture land. Provincial Government policy – the “Food Land Guidelines” – states:

“Mineral Aggregate extraction, including wayside pits and quarries, shall not be permitted on specialty crop lands in . . . [5 defined areas³] unless documentation is provided to reasonably show that:

- (a) The site can be rehabilitated for agriculture to allow production of the same acreage of the same specialty crops at the same level of productivity, and
- (b) There will be no effect on climate or microclimate on which the area may be dependent for specialty crop production.

“On other specialty crop lands, and on good general agricultural land (*Classes 1 to 3 according to the Canada Land Inventory classification system*) mineral aggregate extraction (*including wayside pits and quarries*) may occur, if agricultural rehabilitation of the site is carried out, and substantially the same acreage and average soil capability for agriculture are restored. This will not be required for areas committed for land uses other than agriculture by the Municipal Official Plan.”

The applicant should ascertain the agriculture land capability classification of the site and develop operation and rehabilitation plans accordingly. In specific cases, additional information may be required by way of plans or studies.

Preparation of Site Plans

Once the preliminary inspection has been completed, and discussed with the Pits and Quarries Inspector, the site plans should be prepared in draft form prior to formal submission. Site plans must be prepared and certified by a Professional Engineer, Ontario Land Surveyor or other person approved by the Minister.⁴

³The five defined areas are fruitlands (orchards and vineyards) shown in Figure 3.

⁴A list of other approved persons is available from the Ministry of Natural Resources District Office.

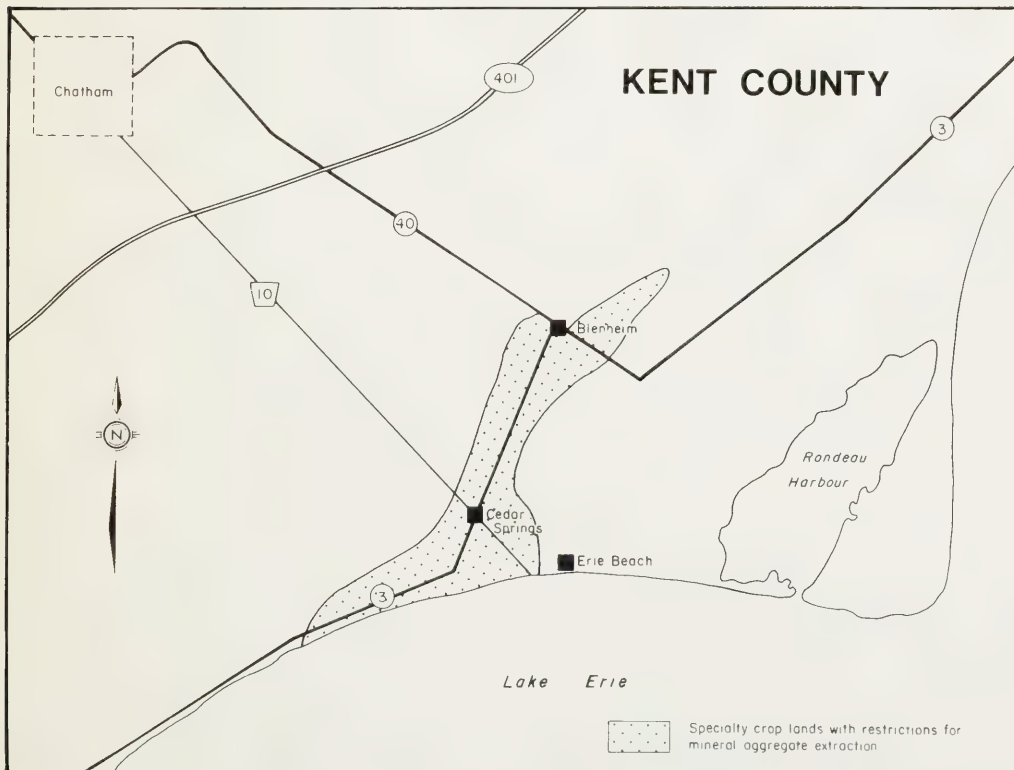
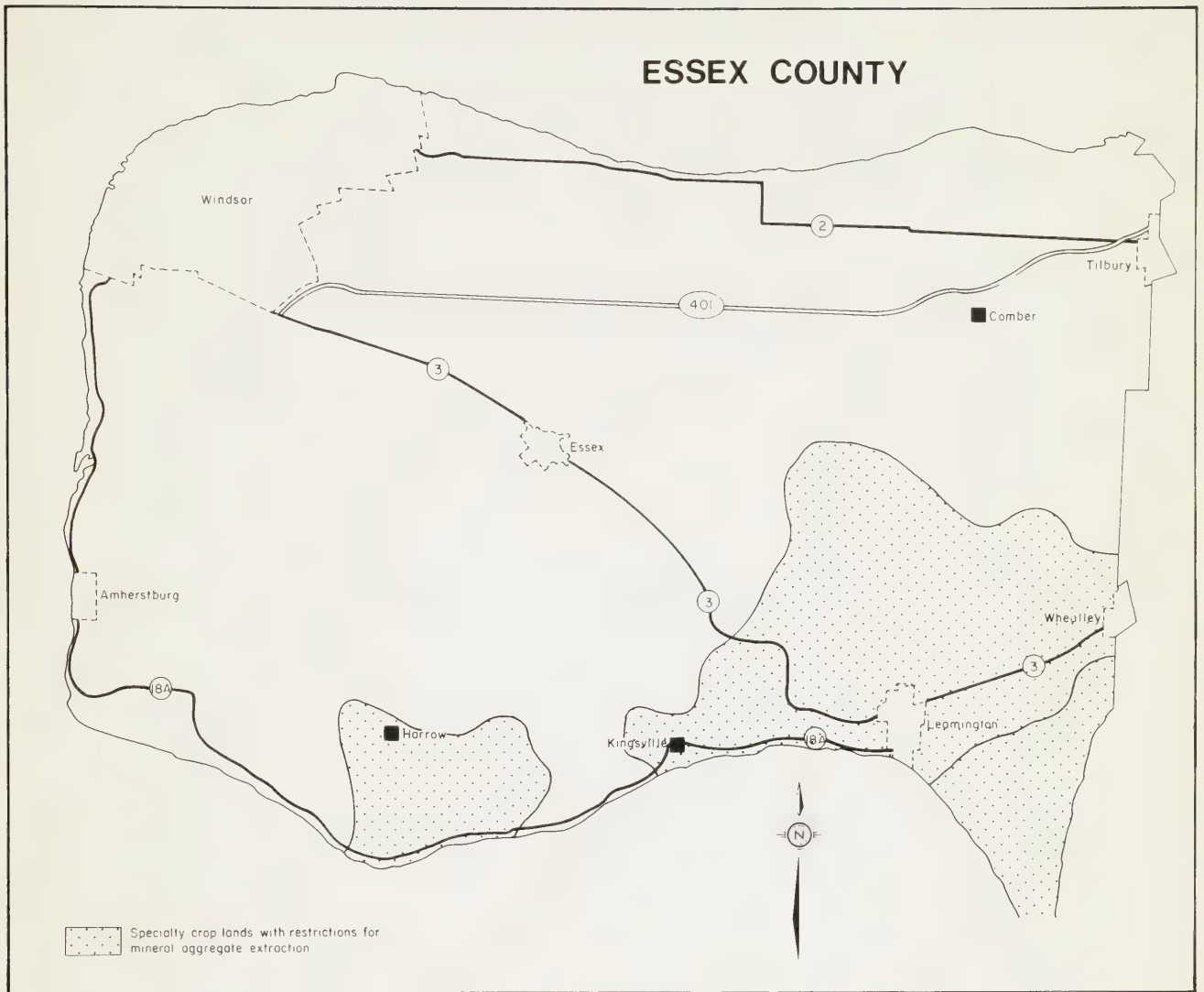
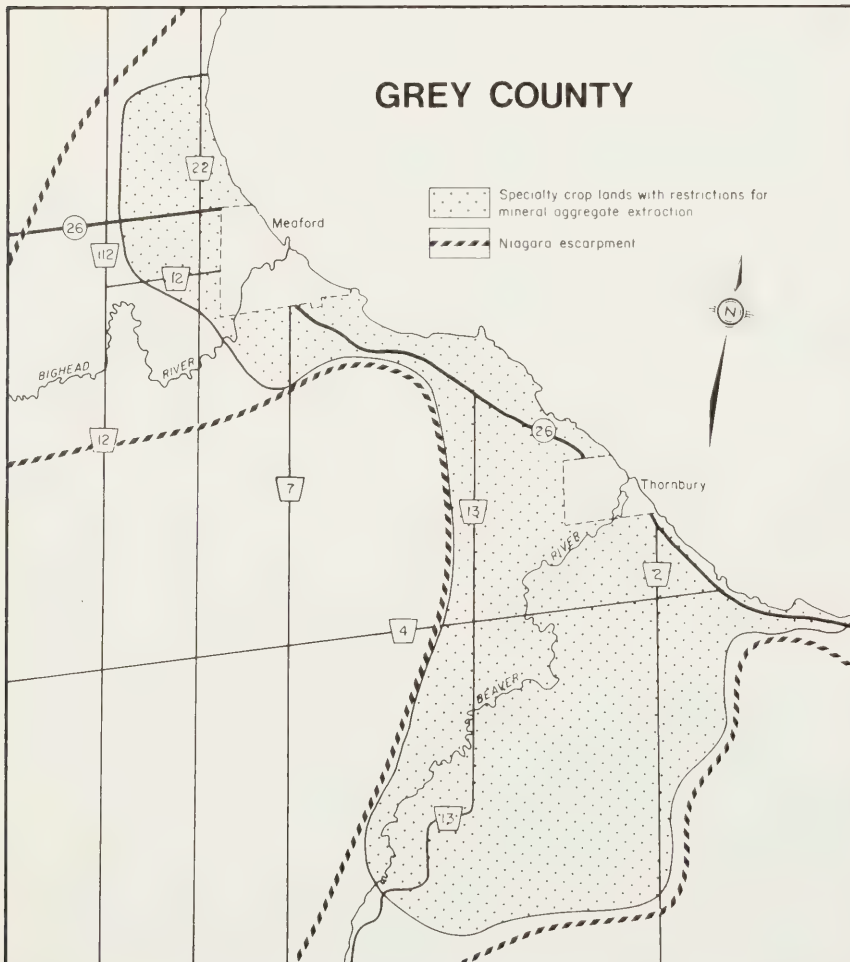
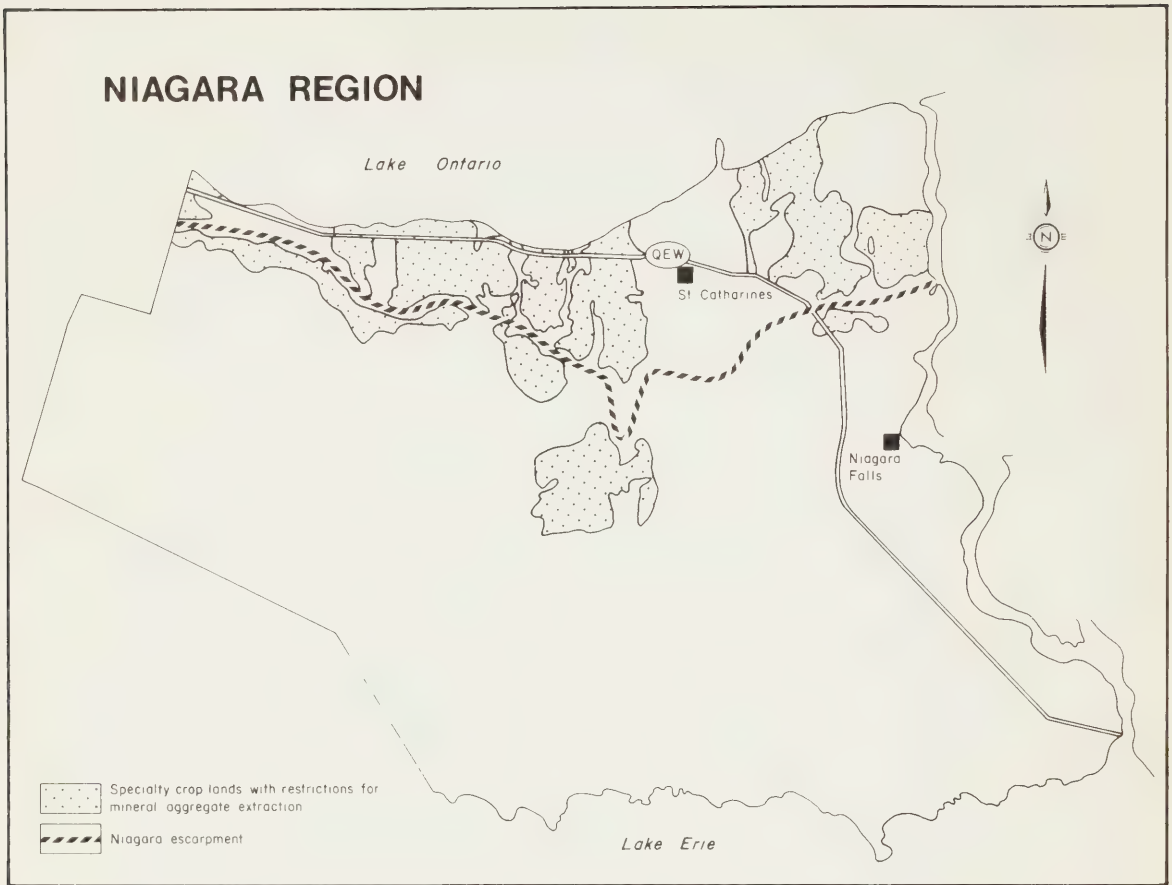


Figure 3:
Specialty crop areas
with restrictive
aggregate policies.



Formal Application Submission

The formal submission to the appropriate Ministry of Natural Resources District Office must contain:

- (a) Four copies of the site plan which have been signed and stamped by the person/company who prepared them (*Additional copies may be requested by the Inspector*).
- (b) Application Form 1 correctly completed, dated and signed by an officer of the company and/or individual. The form must also be signed and stamped by the person who prepared the site plans. N.B. The description of the location of the operation should be described as accurately as possible, e.g. Pt. NW1/4 of Lot 2, etc.
- (c) Notice of Application Form 5, completed except for the last day upon which written objections may be filed (*this will be determined by the Ministry*).
- (d) Proof of land ownership or a copy of the extraction agreement.

Notice of Application

The applicant is required to give public notice of his application through advertisement in two successive issues of at least one daily or weekly paper, having general circulation in the area of the proposed pit or quarry. There is a 45-day period during which objections may be submitted to the Ministry of Natural Resources.

The Ministry of Natural Resources District Office will advise the applicant of the dates on which this notice must appear in the paper.

Site Plan Review and Circulation

The application and site plans will be reviewed within the Ministry of Natural Resources and circulated to the following agencies for their review and comments:

- (a) Local Municipality and/or Regional Municipality/County;
- (b) Ministry of the Environment;
- (c) Ministry of Agriculture and Food;
- (d) Ministry of Municipal Affairs;
- (e) Other agencies as may be appropriate.

Objections

If objections are received within the 45-day period, the application may be referred to the Ontario Municipal Board for a hearing. The Minister of Natural Resources may also refer the application to the Ontario Municipal Board on his own motion.

If objections are received by the municipality to the official plan and/or zoning by-law amendments, the licensing and planning matters may be referred to the Board concurrently for a joint hearing.

The applicant will be permitted to view the objection letters on file. Should the applicant be able to resolve the concerns of the objector(s), the objection may be withdrawn thereby eliminating the need for an Ontario Municipal Board hearing.

Ontario Municipal Board Hearing

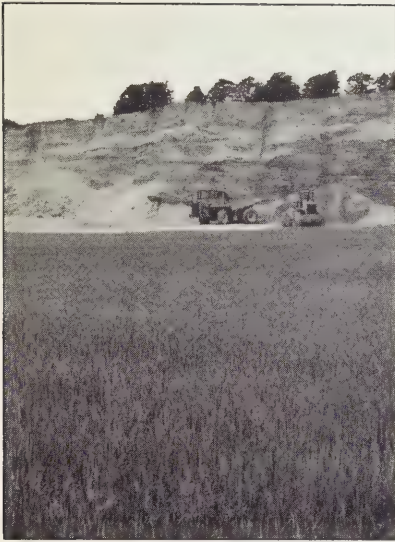
The Ontario Municipal Board considers the application and hears evidence from all concerned parties, either for or against the application. The applicant may wish to retain legal counsel.

During the hearing, the applicant should be prepared where necessary, to present evidence regarding the following:

- (a) The objector's concerns;
- (b) Dust related problems;
- (c) Noise from drilling and crushing etc.;
- (d) Blasting;
- (e) Surface and ground water interference (*e.g. wells*);
- (f) Truck traffic;
- (g) Visual impact;
- (h) The criteria in sec. 6(1) of the Act.

After the hearing, the Ontario Municipal Board makes a report and recommendations on the licence application to the Minister of Natural Resources.

Decision On Issuance Of Licence



The Minister of Natural Resources makes the decision whether to issue (*subject to appropriate terms and conditions*) or refuse to issue the licence, taking into consideration any recommendations made by the Ontario Municipal Board.

If there has been no Board hearing, the licence with any appropriate conditions will be sent to the Minister for his decision. In this case, if the Minister refuses to issue the licence, the applicant can request referral to the Ontario Municipal Board and has 30 days in which to so notify the Board and the Minister in writing.

Following any Ontario Municipal Board hearing on the application, the Minister, after considering the Board's report, may issue or refuse the licence and his decision is then final.

Licence Fees

A licence issuance fee will be requested by the District Office before the licence is issued:

- (a) \$25.00 for a person;
- (b) \$100.00 for a corporation.

Wayside Permits

A wayside pit or quarry is one that is opened or used by a public road authority solely for road construction (*a project of road construction or a contract of road construction*). "Road construction" is interpreted to include road maintenance ("*reconstruction*") and therefore may include winter sanding. A "public road authority" may be the Province, a municipality, Local Roads Board etc., and contractors and agents thereof, but such entities are only "public road authorities" when they deal specifically with matters of road construction for the benefit of the public and not for private profit.

A wayside permit may be issued to the person/corporation who is successful in being awarded a particular contract, and has the right to extract material from a particular property.

A wayside operation is considered to be only temporary in nature, and a permit is to last for one year or the duration of the road contract, whichever occurs first.

The following material must be submitted in support of the application:

- i) Application Form 2.
- ii) Sketch map of the proposed area of excavation.
- iii) Evidence from the applicant adequately establishing the necessity for using the particular site as a wayside pit or quarry.
- iv) Rehabilitation statement or plan compatible with the amount of material to be excavated and acceptable to the Inspector.
- v) Written comments from the municipality about the application.
- vi) Written evidence of an agreement with the property owner, giving the applicant the right to enter upon the property to extract material.
- vii) Written evidence that the property owner is in agreement to allow the applicant to rehabilitate the property as specified in the application.
- viii) A copy of the tender or a letter from the public road authority to verify the amount of material required for the project.

The sketch map or Form 2 should also include the following additional information:

- i) A sketch map to scale.
- ii) Property boundaries and existing fences.
- iii) Present pit areas and all excavation faces (*indicating face heights and elevation of pit floor*).
- iv) An outline of any previously mined area which has been rehabilitated.
- v) Areas to be excavated and other areas to be used (*e.g. internal roadways, parking areas, weigh scale location*).
- vi) All plant/equipment/structures including asphalt plants, concrete batching plants, portable crusher etc.
- vii) A key plan indicating the general location of the property.

A fee of \$25.00 is required at the time the permit is issued. The permittee is also responsible to report the total quantity of material extracted and to confirm with the Inspector that the rehabilitation has been satisfactorily completed.

Ministry of Transportation and Communications Wayside Pits and Quarries

An application for a wayside permit for a Ministry of Transportation and Communications contract or project is first submitted to that Ministry. Generally, prior to issuing a tender for a project, the Ministry of Transportation and Communications has identified and pretested most suitable sites for the required material. This information is included on the "Aggregate Sources List" which accompanies the contract specifications.

The Ministry of Transportation and Communications has previously discussed the possible sites with the municipality and Ministry of Natural Resources and all have agreed, subject to a site operation plan, to the issuance of a wayside permit if the successful contractor chooses one of the predetermined sites.

Wayside permit applications for Ministry of Transportation and Communications projects or contracts require submission of the same material and information listed previously for wayside permits in general.



Appendix A

Summary of Most Important Legislation and Policy Affecting Pits and Quarries

The Provincial statutes and policies that most frequently have a bearing on the pit or quarry approval process are briefly discussed here.

Provincial Acts

Pits and Quarries Control Act

The Pits and Quarries Control Act regulates the operation of pits and quarries and wayside pits and quarries on private land in designated areas of Ontario and requires their rehabilitation through a licence/permit process. It is administered by the Ministry of Natural Resources.

Planning Act

This Act gives a municipality the authority to control land use through an official plan and zoning by-laws. It is through these two mechanisms that the municipality can control where and how pits and quarries are established. Under the Pits and Quarries Control Act a licence cannot be issued for a pit or quarry where the location is in contravention of the municipal official plan or zoning by-law.

Municipal Act

Under this Act a municipality may pass by-laws to regulate pit and quarry operations (*such as times of operation and blasting*) provided there is no conflict with provisions of the Pits and Quarries Control Act.

Environmental Protection Act

This Act controls the emission of contaminants into the environment by establishing emission standards and related approval systems. It is administered by the Ministry of the Environment.

Ontario Water Resources Act

The Ontario Water Resources Act, administered by the Ministry of the Environment, controls or prohibits the discharge of any material that may impair the quality of water of any well, lake, river, pond, spring, stream, reservoir or other watercourse. Where there is a "taking" of water totalling more than 50,000 litres per day, a permit is required from the Ministry of the Environment.

Occupational Health and Safety Act

This Act identifies responsibilities regarding the health and safety aspects of mining operations, including pits and quarries. It is administered by the Ministry of Labour. The Mining Engineer reviews operational plans and related specifications to help ensure that the objectives of the Act are achieved. Under this Act the Ministry of Labour has responsibilities relating to blasting, mining operations, mineral processing and site security (*e.g. fencing*).

Beach Protection Act

Through this Act, the Ministry of Natural Resources regulates, with certain exceptions, the removal of sand and gravel from the bed or banks of any lakes, rivers or watercourses. Licences are issued provided the operation will not cause undue erosion or interfere with the natural state or use of the water. Licences must be renewed annually.

Lakes and Rivers Improvement Act

This Act, which is administered by the Ministry of Natural Resources, provides for the use of lakes, rivers and watercourses and regulates improvements or changes to them.

Conservation Authorities Act

Under this Act, Conservation Authorities establish and undertake programs to further the conservation, restoration, development and management of natural resources other than gas, coal and minerals. Conservation Authorities do not have the power to place restrictions on mining activities per se. However, the regulations established by a Conservation Authority (*for water management and hazard related matters*) may require Conservation Authority approval where development is proposed in such areas.

Mining Act

A quarry permit is required under this Act to establish or operate a pit or quarry on Crown land anywhere in the Province (*the Pits and Quarries Control Act does not apply to Crown land*). It is administered by the Ministries of Natural Resources and Northern Development and Mines.

Niagara Escarpment Planning and Development Act/Niagara Escarpment Plan

This Act, and the Niagara Escarpment Plan, constitute policy and a master plan for the Niagara Escarpment corridor extending from Niagara Falls to Tobermory. The location and development of new pits and quarries is strictly controlled; they are prohibited in some areas. Municipal official plans must conform to the Niagara Escarpment Plan. The Niagara Escarpment Planning and Development Act is administered by the Ministry of Municipal Affairs.

Provincial Policies

Mineral Aggregate Resources Policy Statement

This provincial policy under Section 3 of the Planning Act provides direction for municipal planning regarding pits and quarries and mineral aggregate resources.

Food Land Guidelines

This provincial policy protects prime agriculture and speciality crop lands. It may be of critical importance where a pit or quarry is proposed in prime agricultural land and key fruitland areas, as far as rehabilitation is concerned.⁵

Flood Plain Criteria – A Policy Statement of the Government of Ontario on Planning for Flood Plain Lands

This policy establishes the basis for the designation and management of flood plains. The objectives of the policy are to minimize property damage, and to encourage a coordinated approach to the use of land and management of water. If a pit or quarry operator wishes to extract in a flood plain area, special planning requirements are often applied and the operator may have to obtain approvals from several agencies (*e.g. municipality, conservation authority, Ministry of Natural Resources, Ministry of the Environment*).

⁵At press time, the proposed "Foodland Preservation Policy Statement" which would replace the "Food Land Guidelines" is being circulated for public review.

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ISBN 0-7729-1807-4